



1995 SENATE BILL 555

February 14, 1996 - Introduced by Senators COWLES, A LASEE, DRZEWIECKI, ANDREA and BRESKE, cosponsored by Representatives GREEN, OTT, GARD, KAUFERT, GRONEMUS, SPRINGER, F. LASEE and KLUSMAN. Referred to Committee on Transportation, Agriculture and Local Affairs.

1 **AN ACT to repeal** 94.68 (3) (bg) and 94.68 (4) (bm); **to renumber and amend**
2 94.68 (3) (b); **to amend** 25.46 (4), 25.465 (1), 25.465 (2), 25.465 (3), 25.465 (4),
3 25.465 (5), 25.465 (6), 94.64 (3) (c) 1. a. and c. and 2., 94.64 (4) (a), 94.65 (6) (a)
4 1., 94.68 (3) (a) 2., 94.68 (3) (br), 94.68 (4) (a) 1., 94.68 (4) (b), 94.68 (4) (bt),
5 94.685 (3), 94.703 (3) (a), 94.704 (3) (a), 94.73 (1) (g), 94.73 (6) (b) 1. and 2., 94.73
6 (6) (d) and 159.09 (3) (b); and **to create** 25.465 (2m), 25.465 (4m), 94.68 (3) (a)
7 1m., 94.68 (3) (b) 3. and 94.73 (7) (f) of the statutes; **relating to:** fees and
8 surcharges concerning pesticides, fertilizers, agricultural lime and soil and
9 plant additives and reimbursement for costs incurred because of discharges of
10 agricultural chemicals.

Analysis by the Legislative Reference Bureau

Currently, under the agricultural chemical cleanup program, this state reimburses certain persons for a portion of the costs incurred in cleaning up discharges of agricultural chemicals. The reimbursement is generally in an amount equal to 75% of the costs that exceed \$7,500 for a person required to have a license related to fertilizer or pesticides or that exceed \$3,000 for any other person but that do not exceed \$100,000. If the cleanup requires groundwater remediation, the person also receives 80% of the costs that exceed \$100,000 but that do not exceed \$300,000.

This bill increases the amount of reimbursement under the agricultural chemical cleanup program. Under this bill, the reimbursement is generally in an amount equal to 80% of the cost that exceed \$7,500 for a person required to be

licensed or that exceed \$3,000 for any other person but that do not exceed \$100,000. If the cleanup requires groundwater remediation, the person also receives 85% of the costs that exceed \$100,000 but that do not exceed \$300,000.

Current law requires a person who manufactures or labels pesticides for sale in this state to obtain a license from the department of agriculture, trade and consumer protection (DATCP). Each licensee must pay DATCP an annual license fee. In addition, if a licensee sells household pesticides, the licensee must pay a hazardous waste collection and disposal surcharge of \$30 for each household pesticide. Household pesticides include disinfectants, insect repellants and house and garden pesticides. For each pesticide other than a household pesticide, a licensee must pay DATCP a surcharge that is based on the volume of sales and is deposited in the agrichemical management fund.

This bill creates a new category of pesticides called industrial pesticides. A person who manufacturers or labels industrial pesticides must pay the license fee but is exempt from the surcharges imposed on other pesticide manufacturers and labelers. An industrial pesticide is a pesticide that is not a household pesticide and is either a wood preservative or a pesticide used solely for controlling algae, fungi, bacteria, other microscopic organisms or mollusks on specified materials, such as paper or textiles, or in paints and fuels, industrial processes, cooling or heating systems, medical equipment or drinking water systems.

This bill divides various fees related to pesticides, fertilizer and soil and plant additives, the proceeds of which are deposited in the agrichemical management fund, into fees and surcharges and suspends the surcharges for one year.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 25.46 (4) of the statutes is amended to read:

2 25.46 (4) The moneys specified under s. 94.68 (4) (b), ~~(bm)~~ and (bt) for
3 groundwater management.

4 **SECTION 2.** 25.465 (1) of the statutes is amended to read:

5 25.465 (1) The fees and any surcharges imposed under s. 94.64 (3) (c), (3m) (b)
6 and (4) (a) and (d).

7 **SECTION 3.** 25.465 (2) of the statutes is amended to read:

1 25.465 (2) The fees and any surcharges imposed under s. 94.65 (2) (a), (3) (b)
2 and (6) (a) 1.

3 **SECTION 4.** 25.465 (2m) of the statutes is created to read:

4 25.465 (2m) The fees imposed under s. 94.66 (4).

5 **SECTION 5.** 25.465 (3) of the statutes is amended to read:

6 25.465 (3) The fees and any surcharges specified under s. 94.68 (4) (a).

7 **SECTION 6.** 25.465 (4) of the statutes is amended to read:

8 25.465 (4) The fees and surcharges imposed under s. 94.685 (3).

9 **SECTION 7.** 25.465 (4m) of the statutes is created to read:

10 25.465 (4m) The fees imposed under s. 94.702 (3).

11 **SECTION 8.** 25.465 (5) of the statutes is amended to read:

12 25.465 (5) The fees and any surcharges imposed under s. 94.703 (3).

13 **SECTION 9.** 25.465 (6) of the statutes is amended to read:

14 25.465 (6) The fees and any surcharges imposed under s. 94.704 (3).

15 **SECTION 10.** 94.64 (3) (c) 1. a. and c. and 2. of the statutes are amended to read:

16 94.64 (3) (c) 1. a. For each business location and each mobile unit that the
17 applicant uses to manufacture fertilizer in this state and that is not licensed under
18 s. 94.685 or 94.703, \$50 \$25 plus an agricultural chemical clean-up surcharge of \$25,
19 except that no surcharge is due for the license year beginning on August 15, 1997.

20 c. If the applicant distributes fertilizer but does not manufacture it in this state,
21 \$50 \$25 plus an agricultural chemical clean-up surcharge of \$25, except that no
22 surcharge is due for the license year beginning on August 15, 1997.

23 2. The department shall deposit the fees and surcharges collected under this
24 paragraph in the agrichemical management fund.

25 **SECTION 11.** 94.64 (4) (a) of the statutes is amended to read:

1 94.64 (4) (a) A person who sells or distributes fertilizer in this state shall pay
2 to the department a fee of ~~70~~ 25 cents per ton plus an agricultural chemical clean-up
3 surcharge of 45 cents per ton for all fertilizers sold or distributed in this state, except
4 that no surcharge is due for fertilizers sold or distributed in this state from July 1,
5 1996, to June 30, 1997, with a minimum fee payment of \$25 for 25 tons or less. ~~This~~
6 ~~The fee shall not be~~ and surcharge are not applicable to fertilizer materials or
7 products sold to manufacturers or exchanged between them for further
8 manufacturing or further processing. The department shall deposit the fees and
9 surcharges collected under this paragraph in the agrichemical management fund.

10 **SECTION 12.** 94.65 (6) (a) 1. of the statutes is amended to read:

11 94.65 (6) (a) 1. Annually by March 31, file with the department a tonnage report
12 setting forth the number of tons of each soil or plant additive distributed during the
13 preceding year by that person or by any other person authorized under sub. (3) (a)
14 2. to distribute under the name of that person and pay to the department an
15 inspection fee of ~~70~~ 25 cents per ton plus an agricultural chemical clean-up
16 surcharge of 45 cents per ton so distributed, except that no inspection fee is due for
17 soil or plant additives distributed during 1997. The minimum total fee is \$25.

18 **SECTION 13.** 94.68 (3) (a) 1m. of the statutes is created to read:

19 94.68 (3) (a) 1m. "Industrial pesticide" means a pesticide that is not a
20 household pesticide and that either is solely labeled for use on wood and contains
21 pentachlorophenol, coal tar creosote or inorganic arsenical wood preservatives or is
22 solely labeled for use in controlling algae, fungi, bacteria, other microscopic
23 organisms or mollusks in or on one or more of the following:

24 a. Textiles, paper, leather, plastic, vinyl or other synthetic materials, metal or
25 rubber.

1 b. Paints, varnishes, lubricants, fuels and industrial fluids, including
2 adhesives, additives and pigments.

3 c. Commercial, manufacturing or industrial processes, equipment, devices or
4 containers, other than those used in the production or storage of human food or
5 animal feed.

6 d. Cooling or heating systems.

7 e. Medical equipment.

8 f. Drinking water systems.

9 **SECTION 14.** 94.68 (3) (a) 2. of the statutes is amended to read:

10 94.68 (3) (a) 2. "Nonhousehold pesticide" means a pesticide that is not a
11 household pesticide or an industrial pesticide.

12 **SECTION 15.** 94.68 (3) (b) of the statutes is renumbered 94.68 (3) (b) 1. and
13 amended to read:

14 94.68 (3) (b) 1. A licensee shall pay an annual license fee for each pesticide
15 product to be sold or distributed by the licensee in the license year that is based on
16 the volume of the licensee's sales of the pesticide product for use within ~~the~~ this state
17 during the preceding year.

18 2. The fee under this paragraph shall be the following amount for each
19 household pesticide product:

20 a. For no sales or sales of less than \$25,000, ~~\$235~~ \$265.

21 b. For sales equal to or greater than \$25,000, but less than \$75,000, ~~\$720~~ \$750.

22 c. For sales equal to or greater than \$75,000, ~~\$1,470~~ \$1,500.

23 **SECTION 16.** 94.68 (3) (b) 3. of the statutes is created to read:

24 94.68 (3) (b) 3. The fee under this paragraph shall be the following amount for
25 each industrial or nonhousehold pesticide:

1 a. For no sales or sales of less than \$25,000, \$315.

2 b. For sales equal to or greater than \$25,000, but less than \$75,000, \$860.

3 c. For sales equal to or greater than \$75,000, \$3,060.

4 **SECTION 17.** 94.68 (3) (bg) of the statutes is repealed.

5 **SECTION 18.** 94.68 (3) (br) of the statutes is amended to read:

6 94.68 (3) (br) In addition to the fees under par. (b), a licensee shall pay ~~a~~ an
7 agricultural chemical clean-up surcharge for each nonhousehold pesticide product
8 to be sold or distributed by the licensee in the license year that is based on the volume
9 of the licensee's sales of the nonhousehold pesticide product for use within the state
10 during the preceding year, except that no surcharge is due on sales from October 1,
11 1995, to September 30, 1996. The surcharge shall be the following amount:

12 1. For no sales or sales of less than \$25,000, ~~\$90~~ \$10.

13 2. For sales equal to or greater than \$25,000, but less than \$75,000, ~~\$340~~ \$200.

14 3. For sales equal to or greater than \$75,000, an amount equal to ~~the sum of~~
15 ~~\$1,590~~ plus 1.3% of those sales.

16 **SECTION 19.** 94.68 (4) (a) 1. of the statutes is amended to read:

17 94.68 (4) (a) 1. An amount equal to the difference between all of the license fees
18 and surcharges received under sub. (3) (b), (c) and (e) and all of the amounts
19 deposited under pars. (b), ~~(bm)~~ (bt) and (c).

20 **SECTION 20.** 94.68 (4) (b) of the statutes is amended to read:

21 94.68 (4) (b) The department shall deposit in the environmental fund for
22 groundwater management an amount equal to \$50 of the amount received for each
23 household pesticide product under sub. (3) (b), (c) and (e).

24 **SECTION 21.** 94.68 (4) (bm) of the statutes is repealed.

25 **SECTION 22.** 94.68 (4) (bt) of the statutes is amended to read:

1 94.68 (4) (bt) The department shall deposit in the environmental fund for
2 groundwater management ~~all of the~~ an amount equal to \$30 for each household
3 pesticide product under sub. (3) (b), (c) and (e) for hazardous waste collection and
4 disposal surcharges received under sub. (3) (bg).

5 **SECTION 23.** 94.685 (3) of the statutes is amended to read:

6 94.685 (3) A licensee shall pay an annual license fee for each location from
7 which the licensee sells restricted-use pesticides, including any new location opened
8 during the license period. A licensee who opens a new sales location during the
9 license period may not sell a restricted-use pesticide from the new location unless
10 the licensee has paid the license fee for that new sales location. ~~The amount of the~~
11 license fee is \$100 \$50 plus an agricultural chemical clean-up surcharge of \$50 for
12 each location, except that if the a location is also licensed under s. 94.703 the license
13 fee is \$50 surcharge does not apply to that location and except that for the license
14 year beginning on January 1, 1997, no surcharge is due under this subsection.

15 **SECTION 24.** 94.703 (3) (a) of the statutes is amended to read:

16 94.703 (3) (a) A licensee under this section shall pay an annual license fee of
17 ~~\$125~~ \$50 plus an agricultural chemical clean-up surcharge of \$75. If the licensee
18 operates from more than one business location in this state, the licensee shall also
19 ~~pay a fee of \$125~~ the license fee and the surcharge for each additional business
20 location operated by the licensee, including each new business location added during
21 the license year. No agricultural chemical clean-up surcharge is due under this
22 paragraph for the license year beginning on January 1, 1997.

23 **SECTION 25.** 94.704 (3) (a) of the statutes, as affected by 1995 Wisconsin Act 27,
24 is amended to read:

1 94.704 (3) (a) Except as provided under par. (b), a licensee under this section
2 shall pay an annual license fee of ~~\$60~~ \$35 plus an agricultural chemical clean-up
3 surcharge of \$25, except that no agricultural chemical clean-up surcharge is due for
4 the license year beginning on January 1, 1997. The department shall deposit all
5 license fees and surcharges collected under this paragraph in the agrichemical
6 management fund.

7 **SECTION 26.** 94.73 (1) (g) of the statutes is amended to read:

8 94.73 (1) (g) "Nonhousehold pesticide" has the meaning given in s. 94.68 (3) (a)
9 2., ~~except that it does not include pentachlorophenol, inorganic arsenical wood~~
10 ~~preservatives and coal tar creosote.~~

11 **SECTION 27.** 94.73 (6) (b) 1. and 2. of the statutes are amended to read:

12 94.73 (6) (b) 1. An amount equal to ~~75%~~ 80% of the corrective action costs that
13 exceed \$7,500 for a person required to be licensed under ss. 94.64 to 94.71 or that
14 exceed \$3,000 for any other person but that do not exceed \$100,000.

15 2. If the corrective action includes groundwater remediation ordered by the
16 department under sub. (2) or by the department of natural resources under s. 144.76
17 (7) (c), ~~80%~~ 85% of the corrective action costs that exceed \$100,000 but that do not
18 exceed \$300,000.

19 **SECTION 28.** 94.73 (6) (d) of the statutes is amended to read:

20 94.73 (6) (d) If the corrective action is related to a discharge that occurred in
21 the course of transporting an agricultural chemical, the reimbursement under par.
22 (b) is limited to ~~75%~~ 80% of the corrective action costs that exceed \$7,500 for a person
23 required to be licensed under ss. 94.64 to 94.71 or that exceed \$3,000 for any other
24 person but that do not exceed \$50,000.

25 **SECTION 29.** 94.73 (7) (f) of the statutes is created to read:

1 94.73 (7) (f) Before the first day of the 2nd month beginning after the effective
2 date of this paragraph [revisor inserts date], the department shall make a
3 payment to each person that received reimbursement under this section before the
4 effective date of this paragraph [revisor inserts date], equal to 6.667% of the
5 amount of that reimbursement up to \$69,375 and 6.25% of any amount by which that
6 reimbursement exceeded \$69,375.

7 **SECTION 30.** 159.09 (3) (b) of the statutes is amended to read:

8 159.09 (3) (b) Adopt an ordinance to enforce the program established under
9 sub. (2) (a). The ordinance may include a schedule of forfeitures to be imposed for
10 violations of that ordinance. The ordinance may authorize the responsible unit or
11 person designated under par. (a) to refuse to accept solid waste at the recycling
12 facility or site if the solid waste is a container for an industrial pesticide, as defined
13 in s. 94.68 (3) (a) 1m., or a nonhousehold pesticide, as defined in s. 94.68 (3) (a) 2.,
14 is contaminated or is otherwise in a condition that makes recycling infeasible. The
15 ordinance may require a person to use a facility for the recycling of solid waste or for
16 the recovery of resources from solid waste, as defined in s. 159.13 (1) (d), only as
17 provided under s. 159.13.

18 **SECTION 31. Nonstatutory provisions.**

19 (1) RECOMMENDATIONS FOR FEE AND SURCHARGE REVISIONS. The department of
20 agriculture, trade and consumer protection shall develop recommendations for
21 revising the fees and surcharges that are paid into the agrichemical management
22 fund, taking into account the reimbursement of environmental costs under the
23 agricultural chemical cleanup program and the other financial needs of the
24 agrichemical management programs of the department. The department shall

1 submit the recommendations to the legislature in the manner provided under section
2 13.172 (2) of the statutes no later than December 31, 1996.

3 (END)